

**UTAH SUDDEN CARDIAC ARREST SURVIVAL
ACT**

2009 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill enacts the Utah Sudden Cardiac Arrest Survival Act and amends civil liability immunity provisions relating to the act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for expiration of the automatic external defibrillator (AED) statewide database on September 1, 2009, and replaces it with local systems operated by public safety answering points;
- ▶ permits a person to administer CPR or use an AED on a person reasonably believed to be in sudden cardiac arrest:
 - without a license or certificate; and
 - regardless of whether the person is trained to administer CPR or to use an AED;
- ▶ provides immunity from civil liability for certain acts or omissions relating to administering CPR, operating, designing, or managing a CPR or AED program, or providing instructions or training, or taking other specified action, in relation to CPR or AEDs, unless the actions constitute gross negligence or willful misconduct;
- ▶ provides that this bill does not relieve a manufacturer, designer, developer, marketer, or commercial distributor from liability relating to an AED or an AED accessory;
- ▶ requires a person who owns or leases an AED to report certain information, including the location of, or removal of, the AED, to the public safety answering point that provides emergency dispatch services for that area;
- ▶ describes the duties of a public safety answering point to disclose information relating to the location of an AED;

- 32 ▶ describes the duties of the Bureau of Emergency Medical Services in relation to
33 providing education and training on the administration of CPR and the use of an
34 AED; and
35 ▶ makes technical changes.

36 **Monies Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 AMENDS:

- 42 **26-8a-209**, as enacted by Laws of Utah 2003, Chapter 53
43 **26-8a-301**, as enacted by Laws of Utah 1999, Chapter 141
44 **26-8a-308**, as last amended by Laws of Utah 2000, Chapter 62
45 **26-8a-502**, as last amended by Laws of Utah 2000, Chapter 1
46 **26-8a-601**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

47 ENACTS:

- 48 **26-8b-101**, Utah Code Annotated 1953
49 **26-8b-102**, Utah Code Annotated 1953
50 **26-8b-201**, Utah Code Annotated 1953
51 **26-8b-202**, Utah Code Annotated 1953
52 **26-8b-301**, Utah Code Annotated 1953
53 **26-8b-302**, Utah Code Annotated 1953
54 **26-8b-303**, Utah Code Annotated 1953
55 **26-8b-401**, Utah Code Annotated 1953

56

57 *Be it enacted by the Legislature of the state of Utah:*

58 Section 1. Section **26-8a-209** is amended to read:

59 **26-8a-209. Fully automated external defibrillator statewide database.**

60 ~~[(1) The department shall work in cooperation with state, federal, and local agencies to~~
61 ~~encourage individuals to complete a course that includes instruction on cardiopulmonary~~
62 ~~resuscitation and the operation and use of a fully automated external defibrillator that is~~

63 conducted in accordance with guidelines of the American Heart Association, American Red
64 Cross, or other nationally recognized program by a person qualified by training or experience.]

65 ~~[(2) The]~~ (1) Except as provided in Subsection (4), the department shall establish and
66 maintain a statewide database containing the following information:

67 (a) the name of the owner of a fully automated external defibrillator; and

68 (b) the precise location of the fully automated external defibrillator, including the
69 address and the place in which the defibrillator is stored.

70 ~~[(3)]~~ (2) Except as provided in Subsection (4):

71 (a) ~~[The]~~ the department shall give the information from the database to emergency
72 medical service dispatch centers in the state~~[-]; and~~

73 (b) ~~[Emergency]~~ emergency medical dispatch centers in the state may disclose the
74 nearest location of a fully automated external defibrillator to a person calling the dispatch
75 center in the event of a medical emergency and to first responders in an emergency.

76 ~~[(4) (a) Manufacturers selling fully automated external defibrillators in the state shall:]~~

77 ~~[(i) inform commercial purchasers in writing of the requirement to register the~~
78 ~~ownership and location of the fully automated external defibrillator with the department;]~~

79 ~~[(ii) provide to the purchaser of a fully automated external defibrillator all information~~
80 ~~governing the use, installation, operation, training, and maintenance of the fully automated~~
81 ~~external defibrillator; and]~~

82 ~~[(iii) on a quarterly basis, notify the department of the name and address of a~~
83 ~~commercial purchaser of a fully automated external defibrillator and the type of device~~
84 ~~purchased;]~~

85 ~~[(b)]~~ (3) Except as provided in Subsection (4):

86 ~~[(i) A]~~ (a) a commercial owner of a fully automated external defibrillator shall register
87 the ownership and precise location of the defibrillator with the department within 30 days of
88 acquisition of the defibrillator~~[-];~~

89 ~~[(ii) An]~~ (b) an owner of a fully automated external defibrillator purchased for use in a
90 private residence may register the ownership and precise location of the defibrillator with the
91 department~~[-]; and~~

92 (c) ~~[The]~~ the department may not impose penalties on a manufacturer or an owner of a
93 fully automated external defibrillator for failing to comply with the requirements of this

94 section.

95 (4) Beginning on September 1, 2009:

96 (a) the provisions of this section are no longer in effect; and

97 (b) the provisions of Title 26, Chapter 8b, Utah Sudden Cardiac Arrest Survival Act,
98 supercede the provisions of this section.

99 (5) On or before August 1, 2009, the department shall provide to each public safety
100 answering point, as defined in Section 63C-7-103, all information contained in the statewide
101 database that pertains to the area for which the public safety answering point provides
102 emergency dispatch services.

103 (6) Beginning on the date that the department provides the information required under
104 Subsection (5), and continuing on a weekly basis until September 1, 2009, the department shall
105 provide any additional information that it receives for the statewide database to the public
106 safety answering points described in Subsection (5).

107 Section 2. Section **26-8a-301** is amended to read:

108 **26-8a-301. General requirement.**

109 (1) Except as provided in Section 26-8a-308 or 26-8b-201:

110 (a) an individual may not provide emergency medical services without a certificate
111 issued under Section 26-8a-302;

112 (b) a facility or provider may not hold itself out as a designated emergency medical
113 service provider without a designation issued under Section 26-8a-303;

114 (c) a vehicle may not operate as an ambulance or emergency response vehicle without a
115 permit issued under Section 26-8a-304; and

116 (d) an entity may not respond as an ambulance or paramedic provider without the
117 appropriate license issued under Part 4, Ambulance and Paramedic Providers.

118 (2) Section 26-8a-502 applies to violations of this section.

119 Section 3. Section **26-8a-308** is amended to read:

120 **26-8a-308. Exemptions.**

121 (1) The following persons may provide emergency medical services to a patient
122 without being certified or licensed under this chapter:

123 (a) out-of-state emergency medical service personnel and providers in time of disaster;

124 (b) an individual who gratuitously acts as a Good Samaritan;

(c) a family member;

(d) a private business if emergency medical services are provided only to employees at the place of business and during transport;

(e) an agency of the United States government if compliance with this chapter would be inconsistent with federal law; and

(f) police, fire, and other public service personnel if:

(i) emergency medical services are rendered in the normal course of the person's duties; and

(ii) medical control, after being apprised of the circumstances, directs immediate transport.

(2) An ambulance or emergency response vehicle may operate without a permit issued under Section 26-8a-304 in time of disaster.

(3) Nothing in this chapter or Title 58, Occupations and Professions, may be construed as requiring a license or certificate for an individual to ~~[perform]~~ administer cardiopulmonary resuscitation ~~[and] or to use a fully automated external defibrillator [if that individual has successfully completed a course that includes instruction on cardiopulmonary resuscitation and the operation and use of a fully automated external defibrillator that is conducted in accordance with guidelines of the American Heart Association, American Red Cross, or other nationally recognized program by a person qualified by training or experience]~~ under Section 26-8b-201.

(4) Nothing in this chapter may be construed as requiring a license, permit, designation, or certificate for an acute care hospital, medical clinic, physician's office, or other fixed medical facility that:

(a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse; and

(b) treats an individual who has presented himself or was transported to the hospital, clinic, office, or facility.

Section 4. Section **26-8a-502** is amended to read:

26-8a-502. Illegal activity.

(1) Except as provided in Section 26-8a-308 or 26-8b-201, a person may not:

(a) practice or engage in the practice, represent himself to be practicing or engaging in the practice, or attempt to practice or engage in the practice of any activity that requires a

license, certification, or designation under this chapter unless that person is so licensed, certified, or designated; or

(b) offer an emergency medical service that requires a license, certificate, or designation unless the person is so licensed, certified, or designated.

(2) A person may not advertise or hold himself out as one holding a license, certification, or designation required under this chapter, unless that person holds the license, certification, or designation.

(3) A person may not employ or permit any employee to perform any service for which a license or certificate is required by this chapter, unless the person performing the service possesses the required license or certificate.

(4) A person may not wear, display, sell, reproduce, or otherwise use any Utah Emergency Medical Services insignia without authorization from the department.

(5) A person may not reproduce or otherwise use materials developed by the department for certification or recertification testing or examination without authorization from the department.

(6) A person may not willfully summon an ambulance or emergency response vehicle or report that one is needed when such person knows that the ambulance or emergency response vehicle is not needed.

(7) A person who violates this section is subject to Section 26-23-6.

Section 5. Section **26-8a-601** is amended to read:

26-8a-601. Persons and activities exempt from civil liability.

(1) ~~[A]~~ (a) Except as provided in Subsection (1)(b), a licensed physician, physician's assistant, or licensed registered nurse who, gratuitously and in good faith, gives oral or written instructions to any of the following is not liable for any civil damages as a result of issuing the instructions:

(i) an individual certified under Section 26-8a-302 ~~[or]~~;

(ii) a person ~~[permitted to use]~~ who uses a fully automated external defibrillator ~~[because of Section 26-8a-308 is not liable for any civil damages as a result of issuing the instructions, unless], as defined in Section 26-8b-102; or~~

(iii) a person who administers CPR, as defined in Section 26-8b-102.

(b) The liability protection described in Subsection (1)(a) does not apply if the

instructions given were the result of gross negligence or willful misconduct.

(2) An individual certified under Section 26-8a-302, during either training or after certification, a licensed physician, physician's assistant, or a registered nurse who, gratuitously and in good faith, provides emergency medical instructions or renders emergency medical care authorized by this chapter is not liable for any civil damages as a result of any act or omission in providing the emergency medical instructions or medical care, unless the act or omission is the result of gross negligence or willful misconduct.

(3) An individual certified under Section 26-8a-302 is not subject to civil liability for failure to obtain consent in rendering emergency medical services authorized by this chapter to any individual who is unable to give his consent, regardless of the individual's age, where there is no other person present legally authorized to consent to emergency medical care, provided that the certified individual acted in good faith.

(4) A principal, agent, contractor, employee, or representative of an agency, organization, institution, corporation, or entity of state or local government that sponsors, authorizes, supports, finances, or supervises any functions of an individual certified under Section 26-8a-302 is not liable for any civil damages for any act or omission in connection with such sponsorship, authorization, support, finance, or supervision of the certified individual where the act or omission occurs in connection with the certified individual's training or occurs outside a hospital where the life of a patient is in immediate danger, unless the act or omission is inconsistent with the training of the certified individual, and unless the act or omission is the result of gross negligence or willful misconduct.

(5) A physician who gratuitously and in good faith arranges for, requests, recommends, or initiates the transfer of a patient from a hospital to a critical care unit in another hospital is not liable for any civil damages as a result of such transfer where:

(a) sound medical judgment indicates that the patient's medical condition is beyond the care capability of the transferring hospital or the medical community in which that hospital is located; and

(b) the physician has secured an agreement from the receiving facility to accept and render necessary treatment to the patient.

(6) A person who is a registered member of the National Ski Patrol System (NSPS) or a member of a ski patrol who has completed a course in winter emergency care offered by the

NSPS combined with CPR for medical technicians offered by the American Red Cross or American Heart Association, or an equivalent course of instruction, and who in good faith renders emergency care in the course of ski patrol duties is not liable for civil damages as a result of any act or omission in rendering the emergency care, unless the act or omission is the result of gross negligence or willful misconduct.

(7) An emergency medical service provider who, in good faith, transports an individual against his will but at the direction of a law enforcement officer pursuant to Section 62A-15-629 is not liable for civil damages for transporting the individual.

~~[(8) A person who is permitted to use a fully automated external defibrillator because of Section 26-8a-308 is not liable for civil damages as a result of any act or omission related to the use of the defibrillator in providing emergency medical care gratuitously and in good faith to a person who reasonably appears to be in cardiac arrest, unless the act or omission is the result of gross negligence or wilful misconduct.]~~

Section 6. Section **26-8b-101** is enacted to read:

CHAPTER 8b. UTAH SUDDEN CARDIAC ARREST SURVIVAL ACT

Part 1. General Provisions

26-8b-101. Title.

This Chapter is known as the "Utah Sudden Cardiac Arrest Survival Act."

Section 7. Section **26-8b-102** is enacted to read:

26-8b-102. Definitions.

As used in this Chapter:

(1) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to Section 360(k), Title 21 of the United States Code;

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of an electrical impulse through the chest wall and to a person's heart.

(2) "Bureau" means the Bureau of Emergency Medical Services, within the department.

(3) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is in respiratory or cardiac arrest.

(4) "Public safety answering point" is as defined in Section 63C-7-103.

(5) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

Section 8. Section **26-8b-201** is enacted to read:

Part 2. Cardiopulmonary Resuscitation and Automatic External Defibrillators

26-8b-201. Authority to administer CPR or use an AED.

(1) A person may administer CPR on another person without a license, certificate, or other governmental authorization if the person reasonably believes that the other person is in sudden cardiac arrest.

(2) A person may use an AED on another person without a license, certificate, or other governmental authorization if the person reasonably believes that the other person is in sudden cardiac arrest.

Section 9. Section **26-8b-202** is enacted to read:

26-8b-202. Immunity.

(1) Except as provided in Subsection (3), the following persons are not subject to civil liability for any act or omission relating to preparing to care for, responding to care for, or providing care to, another person who reasonably appears to be in sudden cardiac arrest:

(a) a person authorized, under Section 26-8b-201, to administer CPR, who

(i) gratuitously and in good faith attempts to administer or administers, CPR to another person; or

(ii) fails to administer CPR to another person;

(b) a person authorized, under Section 26-8b-201, to use an AED who:

(i) gratuitously and in good faith attempts to use or uses an AED; or

(ii) fails to use an AED;

(c) a person that teaches or provides a training course in administering CPR or using an AED;

(d) a person that acquires an AED;

(e) a person that owns, manages, or is otherwise responsible for the premises or

280 conveyance where an AED is located;

281 (f) a person who retrieves an AED in response to a perceived or potential sudden
282 cardiac arrest;

283 (g) a person that authorizes, directs, or supervises the installation or provision of an
284 AED;

285 (h) A person involved with, or responsible for, the design, management, or operation of
286 a CPR or AED program; or

287 (i) a person involved with, or responsible for, reporting, receiving, recording, updating,
288 giving, or distributing information relating to the ownership or location of an AED under Part
289 3, AED Databases.

290 (2) This section does not relieve a manufacturer, designer, developer, marketer, or
291 commercial distributor of an AED, or an accessory for an AED, of any liability.

292 (3) The liability protection described in Subsection (1) does not apply to an act or
293 omission that constitutes gross negligence or willful misconduct.

294 Section 10. Section **26-8b-301** is enacted to read:

295 **Part 3. AED Databases**

296 **26-8b-301. Reporting location of automatic external defibrillators.**

297 (1) Beginning on September 1, 2009, in accordance with Subsection (2) and except as
298 provided in Subsection (3):

299 (a) a person who owns or leases an AED shall report the person's name, address, and
300 telephone number, and the exact location of the AED, in writing, to the public safety answering
301 point that provides emergency dispatch services for the location where the AED is installed, if
302 the person:

303 (i) installs the AED;

304 (ii) causes the AED to be installed; or

305 (iii) allows the AED to be installed.

306 (b) a person who owns or leases an AED that is removed from a location where it is
307 installed shall report the person's name, address, and telephone number, and the exact location
308 from which the AED is removed, in writing, to the public safety answering point that provides
309 emergency dispatch services for the location from which the AED is removed, if the person:

310 (i) removes the AED;

(ii) causes the AED to be removed; or

(iii) allows the AED to be removed.

(2) A report required under Subsection (1) shall be made within 30 days after the day on which the AED is installed or removed.

(3) Subsection (1) does not apply to an AED that is installed in, or removed from, a private residence.

(4) Beginning on September 1, 2009, a person who owns or leases an AED that is installed in, or removed from, a private residence may voluntarily report the location of, or removal of, the AED to the public safety answering point that provides emergency dispatch services for the location where the private residence is located.

(5) The department may not impose a penalty on a person for failing to comply with the requirements of this section.

Section 11. Section **26-8b-302** is enacted to read:

26-8b-302. Distributors to notify of reporting requirements.

A person in the business of selling or leasing an AED shall, at the time the person provides, sells, or leases an AED to another person, notify the other person, in writing, of the reporting requirements described in Section 26-8b-301.

Section 12. Section **26-8b-303** is enacted to read:

26-8b-303. Duties of public safety answering points.

Beginning on September 1, 2009, a public safety answering point shall:

(1) implement a system to receive and manage the information reported to the public safety answering point under Section 26-8a-209 or Section 26-8b-301;

(2) record in the system described in Subsection (1), all information received under Section 26-8a-209 or Section 26-8b-301 as follows:

(a) if the information is received under Subsection 26-8a-209(5), within 30 days after the day on which the information is received; or

(b) if the information is received under Subsection 26-8a-209(6) or Section 26-8b-301, within three days after the day on which the information is received;

(3) inform a person who calls to report a potential incident of sudden cardiac arrest of the location of any nearby AED; and

(4) provide the information contained in the system described in Subsection (1), upon

342 request, to:

343 (a) the department; or

344 (b) another public safety answering point.

345 Section 13. Section **26-8b-401** is enacted to read:

346 **Part 4. Education and Training**

347 **26-8b-401. Education and training.**

348 The bureau shall work in cooperation with federal, state, and local agencies, and

349 schools, to encourage individuals to complete courses on the administration of CPR and the use

350 of an AED.